

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Closed Captioning and Video Description )  
of Video Programming )

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MM Docket No. 95-176

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

COMMENTS OF CBS INC.

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COMMENTS OF CBS INC.

CBS Inc. ("CBS") hereby respectfully submits its comments in response to the Commission's Notice of Inquiry ("Notice") and its Order of February 27, 1996 ("Order") in the above docket, in which the Commission seeks to assess the current availability, cost and uses of closed captioning and video description, and requests comment on the specific provisions of the Telecommunications Act of 1996 ("Act") relating to these services.<sup>1</sup>

The Telecommunications Act embodies a Congressional mandate that future video programming be made "fully accessible" to deaf and hearing-impaired viewers through the provision of closed captions, to the extent requiring captions will not be "economically burdensome to the provider or owner of such programming." Determining what programming can be subjected to a captioning requirement consistent with this Congressional standard requires detailed review of the costs and feasibility of captioning the various categories of video programming in the marketplace.

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<sup>1</sup> Section 305 of the Telecommunications Act of 1996 ("Act"), Pub. L. 104-104, 100 Stat. 56 (codified at 47 U.S.C. §713) ("Section 713").

CBS can comment knowledgeably on these matters in large part because it has been an industry leader in increasing the number of network and local programs in which closed captions are available. Based on its now extensive experience in providing captions, CBS believes that the Commission can best achieve Congress' goal of making programming "fully accessible" to deaf and hearing-impaired viewers by giving broadcasters broad flexibility in implementing the Act's captioning mandate, so that they can meet the very considerable technical and financial obstacles to providing high quality captions. In practical terms, this means that broadcasters should be granted broad discretion in determining the method of captioning their programming, particularly with respect to any requirement that locally-originated programs be captioned. Further, we believe that the imposition of any mandatory captioning requirements as to locally-originated programming should be deferred to allow sufficient time for stations to comply, and to increase the likelihood that stations will ultimately be able to provide higher quality captioning for those local programs which they believe are most important to deaf and hearing-impaired viewers.

CBS's experience also indicates that expanding the provision of video description services in the near term would be prohibitively expensive and technically infeasible. Further study and exploration of this service -- as already planned by CBS -- are needed.

#### I. Introduction and Summary

Over the past five years, CBS has made determined efforts to make its programming broadly and meaningfully accessible to deaf and hearing-impaired audiences. The result of these efforts is that CBS has become an industry leader in the broadcast of closed-captioned programming. At the beginning of 1991, four hours per day of CBS Television Network programming was captioned. Currently, 13.5 hours per day of CBS network programming is

captioned -- a figure that represents virtually all of the network's programming, with the single exception of its overnight news service. Many CBS Owned stations now provide high-quality, real-time captions<sup>2</sup> for significant portions of their locally-originating programming, and CBS assists both its Owned stations and affiliates in their efforts to find affordable ways to expand high-quality captioning of their locally-originated programming.

Just last month, legislation was passed by Congress and signed by the President directing the Commission to promulgate regulations to ensure that future video programming is made "fully accessible" through captions, except where categorical or individual exemptions are warranted. The Telecommunications Act provides for the Commission to exempt "programs, classes of programs, or services" where it determines that requiring captioning "would be economically burdensome to the provider or owner of such programming."<sup>3</sup> It also provides for the Commission to grant individual petitions for exemption to owners and providers of video programming upon a showing that a requirement to caption "would result in an undue burden," defined as "significant difficulty or expense."<sup>4</sup>

Given CBS's considerable experience and success in providing captioning at the network level and in expanding the amount of high quality captioning at its Owned stations, it is especially well situated to comment knowledgeably on the feasibility and cost of making broadcast

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<sup>2</sup> See discussion regarding real-time captioning at pages 13 and 17-20, infra.

<sup>3</sup> Section 713(b) and (d)(1).

<sup>4</sup> Section 713(d)(3) and (e). In determining whether a requirement to provide closed captions would result in an "undue burden," the statute directs that the following non-exclusive list of factors be considered: "(1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner." Section 713(e).

television "fully accessible" to deaf and hearing-impaired viewers, and on the categories of programming that should be exempted under the statutory exceptions. In light of its recent experience, CBS believes the Commission's regulations implementing the Act should provide for the following.

As a general matter, when programming is required to be captioned, the responsibility to caption should rest on the program producer or distributor. Placing the burden on program providers -- that is, individual broadcasters and cablecasters -- would be extremely inefficient and expensive.

CBS believes that any captioning mandates, at either the network or local level, must allow broadcasters broad discretion in selecting the method of captioning. In the face of substantial costs, technical obstacles and a scarcity of captioning services, CBS has achieved its current levels of high-quality captioning by forging innovative partnerships with an array of funding sources and captioning services. On the network level, for example, these arrangements have defrayed a major portion of the estimated four to five millions dollars needed annually to caption the network's programming. On the local level, CBS's success in finding corporate sponsors has enabled a majority of its Owned stations to provide high quality real-time captions for part or all of their local news broadcasts.

These partnerships have given CBS the flexibility to provide a quality and quantity of captioning service that would be difficult and expensive for CBS to provide on its own. But many broadcasters (certainly the majority of stations, including some CBS Owned stations) do not have access to financial sponsorship for captioning. Even those that now do have some sponsorship may be forced to "go it alone" financially if current sponsors choose in the future not to fund services that they know broadcasters are required to provide. Just as important, many broadcasters

will find some types of captioning services that are now scarce even more difficult to obtain if captioning is required for the vast array of programming -- both broadcast and cable -- that is not now captioned. In these circumstances, granting network and local broadcasters broad flexibility in selecting the method of captioning will be critical to enabling them to meet the goal of making video programming accessible to deaf and hearing-impaired audiences.

It is especially important that local stations have broad flexibility in meeting any captioning requirements as to programming which they originate. Most stations do not have access to the captioning services or the funds necessary to provide real-time captions for their locally originated programming. The shortage of real-time captioning services nationwide stands as an insurmountable obstacle to universal, real-time captioning of local programming in the near term. In addition, the expense of immediately providing real-time captioning for all locally-originated news and public affairs programs would be extremely burdensome to the broadcast industry, particularly at a time when the industry will be required to absorb the very substantial cost of the conversion to digital transmission. Stations must be permitted to adopt less expensive -- albeit less desirable -- electronic newsroom (ENR) captioning<sup>5</sup> if they are required to caption their local news programming.

With respect to any mandate to caption locally-originated programming, CBS submits that a deferred deadline for compliance is appropriate for several reasons. First, whatever method of captioning is selected, a significant amount of time will be necessary for many stations to obtain the equipment and funding necessary to come into compliance. In addition, deferral is warranted because an immediate mandate would leave many stations with no alternative to adopting

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<sup>5</sup> This method of captioning is described at page 17, infra.



electronic newsroom (ENR) captioning for locally originated news programming, and might therefore stunt the growth of higher quality (and costlier) real-time captioning. If stations are compelled to implement ENR captioning by overly stringent deadlines, they may not consider other options. By deferring the deadlines for compliance, however, the Commission would create an opportunity for stations to try to expand their provision of high-quality captioning for the programming they believe deaf and hearing-impaired audiences most desire to be captioned. This would also allow time for the growth of real-time captioning services -- which are today simply inadequate to caption all "live" network and locally originated programming -- and for stations to attract the funding support necessary for them to purchase such services.

Irrespective of what it decides regarding local news and public affairs programming, the Commission should exempt local sports programming from any captioning requirements. An obligation to caption locally-originated coverage of sports events -- "live" programming that would need expensive real-time captioning -- would be economically burdensome on the stations that carry any significant amount of such coverage. Moreover, lack of real-time captioning services would make it difficult for many stations to comply with such a requirement.

Finally, the Commission should limit any requirement to caption programming produced prior to the effective date of its regulations to programs which are exhibited on a national network. Aside from the networks, it is generally too burdensome to the industry to require the captioning of past programming for rebroadcast.

The Act also directs the Commission to conduct an inquiry to assess appropriate methods and timetables for phasing video description into the marketplace and to define the

appropriate programming "for which video descriptions would apply."<sup>6</sup> With respect to video description, CBS has already begun to explore, on a voluntary basis, the possibility of using this technology as a means of making certain programs accessible to blind and visually-impaired people. In fact, CBS has committed itself to an on-air test of described video programming within the next two years in conjunction with WGBH Educational Foundation/Described Video Services (DVS)<sup>7</sup> in order to study its feasibility. CBS will continue to study the possibilities and requirements of video description, and expects greater opportunities to provide it on a cost-effective and sustainable basis once the conversion to digital broadcasting occurs. However, as discussed in more detail below, the complexities of video description make regulatory requirements in this area completely unworkable for the present.

II. CBS's Considerable Efforts To Increase The Availability of Closed Captioned Programming -- Which Have Resulted In The Captioning Of Nearly All Its Network Programming And Much Of Its Local News Programming -- Give Clear Indication Of Where Cost And Capacity Obstacles Warrant Creation Of Exceptions To Mandatory Captioning Requirements.

A. CBS Has Been A Leader In The Expansion Of Closed Captioning. And Now Captions Virtually All Its Network Programming.

In the Notice, the Commission seeks information on the current availability of closed-captioned television programming, and asks whether the amount of captioning is increasing or has reached a plateau. The Notice further seeks information on the availability of captioned

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<sup>6</sup> Section 713 (f).

<sup>7</sup> DVS is a service located at PBS station WGBH, Boston, and is funded by the federal government and others. Its mission is to explore methods of making various media more accessible to audiences who are blind or visually-impaired.

programming according to its source.<sup>8</sup> The answer -- with respect to the broadcast networks generally and CBS in particular -- is that a tremendous amount of captioned programming is being provided, and the amount has been increasing recently.

By the Commission's own calculation, there is a great deal of network programming that is already closed captioned. The Notice suggests that approximately 70 percent of broadcast network programming is closed captioned, including nearly 100 percent of prime time programming.<sup>9</sup> In fact, the Notice's assessment generally underestimates the broadcast networks' record and significantly understates CBS's achievements in the provision of closed captioning. CBS in particular has made dramatic advances on a voluntary basis in recent years. At the beginning of 1991, CBS provided four hours of captioned network programming per day. By the end of 1995, that total had increased to a daily average of 13.5 hours of captioned network programming, or between 85 and 95 hours per week, depending on weekend sports programming schedules. In fact, the 13.5 hour figure underestimates the network's actual efforts to close caption its programming. As a matter of policy, in order to ensure that all viewers coast to coast have equal access to captioned programming, CBS requires captioning of refeeds or repairs of news or any other nationally broadcast programming that is updated or changed from time zone to time zone or coast to coast.<sup>10</sup>

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<sup>8</sup> Notice at ¶14.

<sup>9</sup> Notice at ¶13.

<sup>10</sup> For example, on days with breaking news or heavy news load, CBS might caption three feeds of the CBS EVENING NEWS WITH DAN RATHER, or two different versions of a public affairs program in prime time, when the three-hour time difference between coasts makes a significant difference in news coverage. Similarly, on the two-hour weekday program CBS THIS MORNING, additional coverage that is broadcast to the Midwest and the West Coast -- but not the East Coast -- is separately captioned.

The Notice inquires as to the extent of captioning of different types of programming.<sup>11</sup> On the network level, CBS provides virtually complete captioning for every program category. Due to the dramatic increase in its captioning efforts described above, nearly 100 percent of CBS's network programs are now closed captioned. The only CBS network program not captioned is UP TO THE MINUTE, its overnight news service. With that single exception, all of CBS's network programming -- all news and public affairs, all daytime, all prime time, all late night, all children's and all sports programming -- is closed captioned.

In addition, CBS has sponsored efforts to encourage young audiences and others to use captions to enhance their viewing of television programming. Thus, in 1993, CBS open captioned FIEVEL'S AMERICAN TAILS to alert young children and their families to the possibility of using captioned children's programs to develop reading readiness skills. In partnership with WGBH/National Center for Accessible Media (NCAM)<sup>12</sup>, CBS distributed booklets related to this project through local CBS affiliates. Subsequently, CBS open captioned two entire seasons of its weekly animated children's program CBS STORYBREAK, and, in cooperation with WGBH/NCAM, produced companion guides designed to suggest to teachers and students ways to use captioned television programs in elementary school classrooms. The guides also offered information aimed at assisting library reading programs, family literacy programs and English As A Second Language (ESL) classes to use captioned television programming.

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<sup>11</sup> Notice at ¶14.

<sup>12</sup> NCAM is a project located at WGBH, Boston, and is funded by the Corporation for Public Broadcasting and others. Its mission is to explore methods of making various media more accessible to audiences with disabilities.

In sum, on the network level, CBS has been and remains committed to the use of captioned programs, both for the benefit of hearing-impaired viewers and for others in the television audience for whom captioning may serve a useful educational purpose.

B. CBS Endeavors To Provide The Highest Quality Captions For All Its Network Programming.

1. Despite The Considerable Expense, CBS Now Matches Categories Of Network Programming To The Most Suitable Method Of Captioning.

The value of closed captions to our deaf and hard-of-hearing viewers is directly correlated to the quality of those captions. The task of providing high quality captions is challenging, because different obstacles and costs are presented by the varying types of captioning that are appropriate to different kinds of programming. CBS goes to considerable lengths and expense to match its network programming to the most appropriate type of captioning, and to ensure that each of the different types of captioning it uses is of the highest possible quality.

There are four types of captioning used in CBS network programming. Off-line encoded captioning is used for much pre-recorded entertainment programming, including prime time and children's programs. In this type of captioning, captions are created prior to the broadcast of the program<sup>13</sup> for its entire audio track, including sound effects as well as speech. Off-line encoded captioning is synchronized to the program's time code and locked onto the program tape. Thus, in addition to the work of creating the captions, this method of captioning entails a laborious process of ensuring that the captions are placed precisely at the time of the program where the

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<sup>13</sup> Off line captioning, created prior to broadcast for pre-recorded programming, contrasts with real-time captioning, discussed infra, which is created as a live program is being broadcast.

corresponding audio appears, and then locked into position. By encoding the captions onto the program tape, CBS ensures that the captions will appear at precisely the right moment, in a precise location on the screen (usually under the speaker or in a position that does not obscure the action), and will be transmitted whenever the program is broadcast.

The expense of off-line encoded captioning is high, in part because the ratio of time needed to create the captions to the length of the program can be eight to one or higher. The cost of off-line captioning for network programming ranges between \$850 to \$2100 per hour of programming, depending on the type of programming involved. Encoding of the captions onto the program tape entails an additional expense ranging approximately from \$200 for a half-hour program to \$650 for a two-hour program. Thus, at the upper range of cost, the off-line captioning and encoding of a two-hour entertainment program could be as high as \$4850 ( $\$2100 \times 2 + \$650$ ).

CBS policy requires that captioning agencies create off-line encoded captions which are as close to a verbatim transcription of the audio track as space allows. This is a difficult, time consuming task, because the captions must be both accurate and timed to appear on the screen at precisely the right time. However, it is only by producing synchronized, near verbatim off-line captions that we can provide the most valuable service to our viewers. Hard-of-hearing viewers often use captions to verify that they have heard the audio portion of a program correctly. If the captions are not verbatim and timed correctly, these viewers will be unable to use the captions to optimum advantage, and our deaf viewers may entirely miss some portions of the audio track.

A second type of captioning used by the network is live encoded captioning. This type of captioning is also created off-line, for prerecorded programming such as daytime dramas and late night entertainment shows. Despite its name, these captions are not encoded onto the program tape, but rather are transmitted with the program at the time of air. They are less precisely

timed than are off-line encoded captions, are rolled up from the bottom of the screen (rather than popped on precise locations on the screen), and are synchronized to the audio track less exactly. Time constraints often dictate the use (and imprecision) of live encoded captions. They are used, for example, for the LATE SHOW WITH DAVID LETTERMAN, where there are only a few hours between taping and broadcast, and the final edits for the program may not be complete until close to air time. Because these captions are somewhat less precise and are not encoded, they are less expensive than off-line encoded captions, but still cost approximately \$600 to \$900 per hour of programming.<sup>14</sup>

The network also uses automatic live-encoded captions. Like live encoded captions, these off-line captions are in fact not encoded onto the prerecorded program prior to broadcast, but are transmitted at the time of broadcast. However, they are encoded onto the program after the original broadcast, so that the captions will be automatically transmitted when the program is rebroadcast. This expensive method of captioning is most often used for children's programming, because the programs often arrive at the network only shortly before broadcast, and because it allows the captions to lock into place on different portions of the screen, thereby letting children know which character is speaking. For the reasons discussed above, CBS requires these captions to be as close to verbatim as possible and precisely in synchronization with the audio track. Including the cost of encoding after the original broadcast, automatic live encoded captioning for children's

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<sup>14</sup> Live encoded captions are used when it is not expected that the program will be repeated. However, CBS has a policy of requiring captioning agencies to keep an archive of captioning disks so that if, contrary to expectations, programs are shown again, captions do not have to be recreated. Therefore, although captions for the kinds of programs that are live encoded are not encoded onto the program tape due to expense, their preservation in agency archives allows them to be transmitted again in the event of a rebroadcast.

programming costs approximately \$1200 or more for a half-hour program and \$2200 or more for an hour program.

Finally, real-time captions are created during the broadcast of live network programming such as news, sports and award shows through transcription of the entire audio track of the program by stenocaptioners. CBS policy requires captioning agencies working with CBS to create verbatim real-time captions. CBS further insists that these captions have error rates of no more than two percent.<sup>15</sup> As with off-line encoded captions, CBS believes that verbatim real-time captions provide the most valuable service to our viewers. The cost range for real-time stenocaptioning of network programming is \$350 to \$900 per hour.

2. **CBS Has Managed To Provide High Quality Captioning To Viewers On An Affordable Basis By Forging An Array Of Innovative Voluntary Partnerships With Multiple Captioning Agencies And With Multiple Funding Partners.**

As the above hourly rates suggest, the cost of the high quality captioning CBS broadcasts is considerable. The estimated annual cost of captioning CBS network programming is approximately four to five million dollars. Notwithstanding these significant costs, CBS has been able to provide virtually universal captioning of its network programming by developing an array of voluntary partnerships with multiple captioning agencies and with multiple funding partners, including the U.S. Department of Education, program producers and advertisers. These partnerships have facilitated the expansion of captioned programming in large measure by allowing

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<sup>15</sup> In other words, for the approximately 225 to 250 words per minute that a stenocaptioner types, no more than two percent can be incorrect, whether because of typographical mistake, phonetic spelling of words, or any other reason.



costs to be shared, with CBS incurring on average one-third to one-half of the costs of each captioned hour.

Because captioning has been viewed as a public service, Congress has made funding available to cover a part of the captioning costs of certain types of programming.<sup>16</sup> Through partnerships among CBS, various captioning agencies and the Department of Education, government funds are made available to captioning agencies to cover a portion of the cost of captioning approved categories of programming, including news and public affairs, emergency news coverage and children's programming. Network endorsement of particular agencies and guarantees of technical support are required for the agencies to obtain government funds, a procedure which ensures that captioning charges will be reasonable (since the network usually pays a portion of the agencies' captioning fees) and that high quality standards are maintained.

CBS also has developed a variety of innovative approaches to attract partial funding for the captioning of its programming. For a few of its news and public affairs programs, CBS has also obtained the participation of advertisers, who contribute toward the costs of captioning as a public service. CBS Sports pioneered the use of open video credits for private sector funders of captioning on national and regional sports programming. By appealing to sports advertisers to contribute on a public service basis -- for which they receive acknowledgment through open video credits in the programming -- CBS has been able to defray a portion of its costs in captioning sports programming. Utilizing this creative approach, CBS achieved an industry and network first in the Spring of 1995 by captioning the entire NCAA Men's Basketball tournament<sup>17</sup> through its joint

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<sup>16</sup> See generally 20 U.S.C. §§ 1451-54.

<sup>17</sup> The 1995 Tournament involved 63 games, totalling 200 hours of programming over  
(continued...)

efforts with funding and captioning agency partners.<sup>18</sup> No network had ever before successfully captioned all regional coverage of a complex national tournament.

With respect to much of its entertainment programming, CBS has developed yet another approach. For these programs, CBS has entered into partnerships with the program producers and with advertisers whenever possible to jointly handle the captioning fees charged by captioning agencies. In certain cases -- particularly single entertainment programs which are not part of a series and for which it is therefore more difficult to obtain commercial sponsors -- CBS has secured funding support from the government.

For CBS-produced programming, CBS bids out its captioning work to a variety of captioning agencies<sup>19</sup> in order to increase competition in pricing and quality standards among the agencies. CBS's strategy of spreading its captioning work is also intended to foster the growth of new captioning agencies to meet the growing demand for captioning services. As discussed below,

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<sup>17</sup>(...continued)  
a 16 day period. CBS is similarly now captioning all of the 1996 Tournament.

<sup>18</sup> In this case, CBS's funding partners were Pizza Hut and the Department of Education, and its captioning agency partners Real-Time Captioning Inc. and the VITAC Captioning Agency. As this arrangement reflects, the federal government has also provided a portion of the funding for the captioning of sports programming, particularly to support innovative captioning arrangements, such as nationally originated regional coverage of sports programming.

<sup>19</sup> CBS utilizes five different captioning agencies at present, four of which have the capability of creating real-time captions. Two of these are non-profit organizations: the National Captioning Institute (NCI), established by the federal government in 1979 as a private non-profit organization, and The Caption Center-WGBH Educational Center (TCC), which provides services to Public Broadcasting Service stations and other stations. Eighty percent of the funds spent for captioning of CBS network programming are paid to these two non-profit agencies.

existing captioning agencies do not have the capability to caption all national video programming, let alone locally-originated programming.<sup>20</sup>

### 3. Summary

The complex of voluntary partnerships CBS has forged with government and others in the private sector has effectively furthered the goal of expanding access to video programming for deaf and hard-of-hearing viewers. Because captioning has been viewed as a public service, CBS has been able to enlist the support of a range of contributors to expand the amount of cost-effective captioning available. With the substantial assistance of its voluntary partners, CBS has matched the appropriate captioning method with its different categories of network programming, in order to deliver the highest quality and most useful captions to its viewers.

#### C. CBS Owned Television Stations Caption Significant Amounts Of Their Local Programming, And CBS Provides Considerable Support To Its Owned Stations And Affiliates To Assist Their Efforts To Expand And Improve The Quality Of Captioning For Local Programming.

In the Notice, the Commission requests information regarding the availability of closed captions in locally-produced programming.<sup>21</sup> While it is not now feasible, for technical and

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<sup>20</sup> With the increase in captioned programming on CBS, there has been a concomitant improvement in our technical capacity to deliver high quality captions to our viewers. Over the last several years, CBS has become considerably more sophisticated in its ability to encode and transmit captions, to monitor the quality of captioning produced for CBS, to integrate captions into CBS's broadcast operation, and to successfully broadcast, refeed and repair captions. CBS also provides services to assist viewers where captions on CBS network programming are garbled or stripped, because of problems with the transmission of network programming by a local affiliate, cable operator, or direct television service.

<sup>21</sup> Notice at ¶14.

financial reasons, to caption local programming to the same extent as network programs are captioned, see infra, CBS Owned television stations do in fact caption substantial amounts of their locally-originated programming. Moreover, CBS makes substantial efforts to assist both its owned stations and affiliates to increase the captioning and quality of captioning of their local programming.

Most commercial stations around the country that caption local news use electronic newsroom (ENR) captioning. ENR captioning is created from the text that appears on the newsroom's teleprompter. There are, however, quality problems with ENR captioning that reduce its value to deaf and hearing-impaired viewers. Because it is created from the text of the newsroom's teleprompter, the quality of ENR captioning depends on the amount, completeness and accuracy of the information entered into the system. Live reports from the field or reports of breaking stories, much sports and weather reporting, and even ad libs by anchors or others will not be captioned unless a verbatim script is added to the computer running the text from the teleprompter. The captioning that results therefore is incomplete, with some portions of the program captioned somewhat inaccurately and others not captioned at all.

Real-time captioning, created by stenocaptioners through verbatim transcription of the broadcast as it unfolds, is therefore unquestionably preferable to ENR captioning. But the costs of real-time captioning are very high, capacity to provide it is lacking nationwide, and the technical and organizational obstacles to integrating it into local newsrooms are formidable.

CBS has encountered all the problems associated with both ENR and real-time captioning in its ongoing efforts to provide captioning at its owned television stations and to assist

affiliates' efforts to provide captioning. With one exception,<sup>22</sup> all CBS owned stations caption at least some of their local news programming, and some also caption public affairs programming. A majority of CBS stations provide real-time captions for some or all of their local news programming. Those CBS stations that provide real-time captioning for some of their news broadcasts do not caption the rest. The CBS stations that provide ENR captioning, however, do so for all their local news programming.

The cost of providing real-time captioning for local news programming on CBS Owned television stations ranges from about \$175 to \$300 per hour. Those CBS stations providing real-time captioning have managed to do so by finding commercial sponsors, who have underwritten all or part of the cost. Thus, for example, the approximately \$100,000 charged annually by a captioning service to real-time caption local news programming for CBS's Chicago station, WBBM-TV, is entirely provided by a commercial sponsor. Similarly, commercial sponsors underwrite 75 percent of approximately \$100,000 in annual captioning costs for local news programming at WJZ-TV, Baltimore; 50 percent of approximately \$100,000 at KCNC-TV, Denver; 100 percent of approximately \$125,000 at KCBS-TV, Los Angeles; and 100 percent of approximately \$225,000 at WCBS-TV, New York.

In many cases, the substantial sums paid for real-time captioning cover only a portion of the stations' local news programming. For example, at WCBS-TV, New York, 12 hours of local news programming are captioned at an annual cost of \$225,000.<sup>23</sup> The station broadcasts

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<sup>22</sup> WWJ-TV, Detroit, which was acquired by CBS in September 1995, does not presently have a local news broadcast.

<sup>23</sup> WCBS provides very high quality captions. See pages 19-20 & fn. 26. WCBS-TV's captioning sponsor, American Express, and CBS recently won the New York Deaf Theater's (continued...)

another seven hours of local news programming weekly that is not captioned because no sponsor has been found to underwrite it. For the same reason, only some portions of local news programming are captioned at other CBS stations that use real-time captioning.<sup>24</sup>

But cost is only one of the difficulties CBS has encountered in providing real-time captioning for local programming. Captioning agencies and individuals capable of stenographically captioning the necessary 225 to 250 words per minute with an acceptable error rate are in extremely short supply and are simply not available in many parts of the country. This fact is illustrated by CBS's efforts to arrange for stenocaptioning for several of its owned television stations, which have required the use of a non-locally based agency. Thus, in order to find qualified and affordable stenocaptioning for KCBS-TV and WCBS-TV, its stations in Los Angeles and New York, CBS had to turn to a Van Nuys, California captioning agency. Similarly, the CBS stations in Baltimore, Miami, and San Francisco use a Colorado captioning agency to real-time caption their news programming. Using long distance captioning agencies can be problematic for local stations both for cost and quality reasons. Most closed captioning agencies that handle television network programming use satellite feeds to see the network programs they are captioning. But most local stations do not routinely put their programming on a satellite, and could not afford to so.<sup>25</sup>

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<sup>23</sup>(...continued)

Distinguished Service Award for their "creative partnerships" in providing closed captioning of local and network news.

<sup>24</sup> For example, at KYW-TV, Philadelphia, \$175,000 to \$200,000 is paid to caption approximately one-third of the station's local news.

<sup>25</sup> Assuming just three hours of local news programming per day, the daily cost of a station's delivering that programming to a captioning agency by means of satellite transmission would be approximately \$2100. And even if stations did transmit their signals by satellite to captioning agencies, the few agencies capable of downlinking such transmissions and delivering high quality, cost-effective captions on a long distance basis could not possibly meet the potential

(continued...)

Therefore, the captioning agency usually receives the program's audio track over a telephone line, and must caption the program without seeing it. This results in a greater number of errors than would occur if the captioner could see the program, and in the obscuring of graphics or other critical elements of the picture, since the captioner cannot see what the captions are covering. Some captioning agencies have the capability of installing a video telephone line, in addition to the audio line they use to hear the program, so that they can see what they are captioning as it is broadcast. Use of this second line adds \$50 or more per hour to the already high hourly charges for real-time captioning.<sup>26</sup>

In addition to its other efforts, CBS provides troubleshooting and technical support to its owned and affiliated stations, helps with community outreach designed to educate the public about the availability and uses of captioned programming, and facilitates contacts between stations and cable companies to ensure that captions are not lost for viewers receiving network programming through a cable system. CBS also encourages its stations and affiliates to purchase closed-captioned versions of syndicated programming whenever available.

With this background, we turn to our specific proposals regarding implementation of the provisions of the Telecommunications Act relating to closed captioning and video description.

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<sup>25</sup>(...continued)  
demand that mandatory requirements would create.

<sup>26</sup> This higher quality service is used for captioning the local news broadcasts of WCBS-TV and KCBS-TV.

### III. The Responsibility For Captioning Video Programming Should Reside With The Program Producer.

With respect to any programming for which the Commission imposes a captioning mandate, the ultimate responsibility for ensuring that programs are captioned should rest with the program producer. As the Notice states (§27), a House Report concerning the Act recognized that it "is clearly more efficient and economical to caption programming at the time of production and to distribute it with captions than to have each delivery system or local broadcaster caption the program."<sup>27</sup> This reasoning is undoubtedly correct.

Imposing the responsibility for captioning on the program producer will involve a significant burden on broadcasters -- such as networks -- which produce large quantities of the programming they present. Nonetheless, where requiring the captioning of particular kinds of programming does not otherwise present an undue burden, this is a responsibility which broadcaster-producers can reasonably be asked to bear.

However, it would be unfair and inefficient to require broadcasters, in their role as mere distributors of television programming, to bear the responsibility of captioning programming produced or distributed by others. For example, it would be unreasonably inefficient to require each station to caption nationally-syndicated programming when the program producer or syndicator could provide a captioned version of the program to all stations licensing it. Producers of nationally-syndicated programming do caption some of their programs now,<sup>28</sup> and logically should be responsible for meeting any captioning requirement the Commission may impose on their

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<sup>27</sup> H.R. Rep. No. 204, 104th Cong., 1st Sess. 114 (1995).

<sup>28</sup> As noted above, CBS encourages its stations and affiliates to license captioned versions of syndicated programs whenever they are available.



product. Of course, there is no reason why program producers or distributors and broadcasters could not agree to shift the responsibility for captioning contractually. In the absence of such provisions, however, the Commission's regulations should clearly provide that, where the captioning of programming is required, such captions must be furnished by the program producer or distributor. In this connection, we note that program syndicators may be expected to attempt to spread the cost of captioning in licensing negotiations.

IV. The Commission Should Afford Broadcasters Wide Discretion In Choosing The Method Of Captioning Their Programming, Particularly At the Local Level.

CBS's experience in attempting to secure and pay for high quality captioning services indicates that, under any regime of mandatory captioning, broadcasters must be granted broad discretion in selecting the method by which their programming is captioned. Having this flexibility is particularly important with respect to locally-originated programming. In practical terms, this means local stations must be allowed to choose between real-time and ENR captioning for local news broadcasts.

CBS recognizes that ENR captioning is less desirable than real-time captioning. But allowing stations a choice will be essential to the ability of local broadcasters to comply with any captioning requirements the Commission decides to impose. In the near term, it simply would not be possible for local stations across the country to caption all their "live" programming in real-time, because of a severe lack of stenocaptioning capacity and because of the costs of this service.

First, as we show below, the capacity to stenocaption thousands of hours of "live" network and local broadcast television programming -- not to mention such programming presented on cable and other video services -- presently does not exist. No matter what broadcasters were